

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ALEX GERSHKOVICH,

Index No. 15CV7280 (RMB)(DF)

PLAINTIFF,

Notice of Deposition

vs.


NYPD CATPAIN MARK IOCCO,
THE CITY OF NEW YORK, a municipal entity,
Et al.

DEFENDANTS.

COPY

PLEASE TAKE NOTICE that pursuant to Rule 30 of the Federal Rules of Civil Procedure, the plaintiff, through her counsel, will take the deposition of the defendant City of New York, pursuant to FRCP 30(b)(6), before a notary public or other officer authorized by law to administer oaths, at the office of Stecklow Cohen & Thompson, 217 Centre Street, 6th Floor, New York, N.Y. 10013, beginning on April 14, 2016, at 10:00am, and continuing from day to day thereafter, or upon such adjourned date as may be agreed upon until concluded. The City of New York is requested to designate the person or persons most knowledgeable and prepared to testify on behalf of The City of New York concerning the subject matter described on Attachment A hereto. The deposition will be videotaped and recorded by stenographic means.

DATED: New York, N.Y.
March 15 2016



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To:
A.C.C. ANDREW LUCAS
New York City Law Department
100 Church Street
New York, NY 10007

ATTACHMENT A

1. The facts and circumstances of the incidents which are the basis of this case, including:
 - a. The facts and circumstances of the plaintiff's arrest on September 17, 2012.
 - b. The facts and circumstances of the incidents narrated in paragraphs 2-30 of the First Amended Complaint.
2. The facts and circumstances upon which the defendants base their affirmative defenses.¹
3. Events inside and in the vicinity of 4 New York Plaza, as defined in the First Amended Complaint, from 800am to 1030am or from one hour before to one hour after the individuals entered the lobby of 4 New York Plaza, including:
 - a. The observation of plaintiff inside 4 New York Plaza;
 - b. The observation of plaintiff screaming and yelling inside 4 New York Plaza;
 - c. The observation of Jim Klein on multiple occasions stating in a loud voice and close distance to Plaintiff stating in sum and substance, YOU MUST LEAVE THE BUILDING OR YOU'LL BE ARRESTED FOR TRESPASSING;
 - d. The observation of Plaintiff both hearing this announcement and thereafter refusing to leave the building;
 - e. The observation of plaintiff standing outside 4 New York Plaza blocking a doorway and blocking ten or more people;
 - f. The observation of plaintiff being told to leave numerous times and refusing to do so numerous times;
 - g. The observation of plaintiff blocking pedestrian traffic at this location.
4. Identification of witnesses, documents, and document custodians, including:
 - a. Deployment of members of the New York City Police Department at that time and location.
 - b. Identification of the Incident Commander at that time and location.
 - c. Identification of the police units deployed to that location at that time.
 - d. Identification of the members of service of the rank of lieutenant or above at that time and location.
 - e. Identification of all members of service involved in the arrest or arrest processing of the plaintiff on September 17, 2012. Description of the acts performed by such members of service involved in performing the arrest and arrest processing of the plaintiff on September 17, 2012.
 - f. Identification of officers or any Member of Service of NYPD that can attest to time, location and specific wording of announcement by Jim Klein, as

¹ At time deposition notice was being drafted, no responsive pleading had been filed, so the affirmative defenses will be identified once the answer is filed.

described in the criminal complaint filed against Plaintiff and signed by Defendant Captain Mark Iocco, allegedly made inside 4 New York Plaza.

- g. Identification of any custodians of video or audio recordings of that location at that time. Identification of any and all such video or audio recordings.
- h. Identification of any custodians of still photographs of that location at that time. Identification of any and all such still photographs.
- i. Identification of the individual officer or member of the service that made the determination of whom to arrest of the various protesters inside 4 New York Plaza.
- j. Identification of the members of service who made announcements or gave instructions to the group of protestors inside 4 New York Plaza that they would be arrested, and how much time they were given to exit the building.
- k. Identification of the members of service who made announcements or gave instructions to the group of protestors outside 4 New York Plaza that they would be arrested, and how much time they were given to exit the environs of 4 New York Plaza.

~~4~~ 5. Policies and practices of the City of New York concerning:

- a) The rights of civilians to film the police;
- b) The training received by Captain Mark Iocco concerning how participation in First Amendment activity affected his ability to arrest individuals for low level violations such as disorderly conduct;
- c) The training received by Captain Mark Iocco concerning the right of civilians to film the police.
- d) The training received by all members of the service concerning the right of civilians to film the police.
- e) Implementation of Blac v. Codd.
- f) The training received by the various officers involved in plaintiff's arrest of any of the 4 a, b, c, d, e, listed above, including Mark Iocco, NYPD PO Eddie Russel, NYPD PO IVAN BAUTISTA, NYPD PO OFFICER DANIEL CROSS, AFRICAN-AMERICAN SERGEANT.